

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2012-KM-00674-COA**

**CHRISTOPHER CARTER A/K/A  
CHRISTOPHER PAUL CARTER A/K/A  
CHRISTOPHER P. CARTER A/K/A CHRIS  
CARTER**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT:	04/04/2012
TRIAL JUDGE:	HON. WILLIAM E. CHAPMAN III
COURT FROM WHICH APPEALED:	MADISON COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	WILLIAM P. FEATHERSTON JR.
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: LISA LYNN BLOUNT
DISTRICT ATTORNEY:	BOTY MCDONALD
NATURE OF THE CASE:	CRIMINAL - MISDEMEANOR
TRIAL COURT DISPOSITION:	CONVICTED OF DRIVING UNDER THE INFLUENCE, SECOND OFFENSE, AND SENTENCED TO THIRTY DAYS, WITH THE LAST FIFTEEN DAYS SUSPENDED, FOLLOWED BY TWO YEARS OF PROBATION, AND A \$1,500 FINE
DISPOSITION:	AFFIRMED: 07/16/2013
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

**BEFORE LEE, C.J., FAIR AND JAMES, JJ.**

**LEE, C.J., FOR THE COURT:**

**FACTS AND PROCEDURAL HISTORY**

¶1. Christopher Carter was found guilty of driving under the influence (DUI), second offense, in the City of Ridgeland Municipal Court on November 16, 2010. Carter appealed

to the County Court of Madison County, Mississippi. After a trial de novo, a jury convicted Carter of second-offense DUI.<sup>1</sup> Carter was sentenced to thirty days in the custody of the Sheriff of Madison County, with the last fifteen days suspended, followed by two years' probation. Carter was also ordered to pay a \$1,500 fine.

¶2. Carter appealed his conviction to the Circuit Court of Madison County, alleging that the county court erred in overruling his motion in limine to prohibit the prosecution from mentioning his prior DUI conviction in front of the jury. The circuit court affirmed Carter's conviction. Carter now appeals to this Court, asserting that the county court erred in overruling his motion in limine.

#### DISCUSSION

¶3. In his only issue on appeal, Carter contends the county court erred in overruling his motion in limine to prohibit the prosecution from mentioning his prior DUI conviction in front of the jury. Carter cites to *Strickland v. State*, 784 So. 2d 957 (Miss. 2001), to support his position. *Strickland* stated the "prior convictions are only relevant as to sentencing and should only be admitted during a separate sentencing phase." *Id.* at 962 (¶20). However, the Mississippi Supreme Court has since found that a "prior conviction is a necessary element of second-offense DUI." *Lyle v. State*, 987 So. 2d 948, 950 (¶7) (Miss. 2008). "Since the State is required to prove all the essential elements of the crime charged, it [is] not unfair prejudice to present evidence of prior DUI convictions." *Smith v. State*, 950 So. 2d 1056, 1060 (¶17) (Miss. Ct. App. 2007). Therefore, we find this issue to be without merit.

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<sup>1</sup> Carter also pleaded guilty to one count of driving on the wrong side of the road. However, Carter did not appeal this conviction.

**¶4. THE JUDGMENT OF THE MADISON COUNTY CIRCUIT COURT OF CONVICTION OF DRIVING UNDER THE INFLUENCE, SECOND OFFENSE, AND SENTENCE OF THIRTY DAYS, WITH THE LAST FIFTEEN DAYS SUSPENDED, FOLLOWED BY TWO YEARS OF PROBATION, AND A \$1,500 FINE IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.**

**IRVING AND GRIFFIS, P.JJ., BARNES, ISHEE, ROBERTS, CARLTON, MAXWELL, FAIR AND JAMES, JJ., CONCUR.**